

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

5 CRIMINAL APPLICATION NO.182 OF 2021

SHAFIK YUSUF SHAIKH

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

Advocate for Applicant : Shri Abhishek Kulkarni

APP for Respondent No.1-State : Shri A.V.Deshmukh

**CORAM : V.K.JADHAV &
M.G.SEWLIKAR, JJ.**

DATE: 8th March, 2021

PER COURT:-

1. We have heard learned counsel for the applicant for some time.
2. The learned counsel for the applicant, on instructions, seeks leave to withdraw the application with liberty to file an application for discharge before the trial Court.
3. It appears that by order dated 07-10-2020 in Criminal Application No.1294 of 2020 filed by the present applicant for quashing of the FIR, this Court (Coram : T.V.Nalawade and M.G.Sewlikar, JJ.) has rejected the said application with the observations in paragraph No.8 of the said order, which read thus:

“8. In the matter, like present one, the Court is expected to consider the un rebutted allegations made by the informant. In present matter, there are un rebutted allegations of aforesaid nature and there is also one document of aforesaid nature supporting the allegations. As the allegation is that by giving threat of making conversation viral, sexual intercourse was taken, this Court holds that there is sufficient material on record to make out the *prima facie* case that there was no “consent” as mentioned under Section 375 of the Indian Penal Code from respondent No.2. Due to this circumstance, this Court holds that the relief cannot be granted in favour of the applicant.”

4. It appears that the applicant has again submitted this application for quashing of the FIR after filing of the charge-sheet.

5. In view of above, leave granted.

6. Criminal Application is disposed of as withdrawn. The applicant is at liberty to file an application for discharge, however, upon filing such an application seeking discharge, it is for the trial Court to consider the same on its own merits.

(M.G.SEWLIKAR)
JUDGE

(V.K.JADHAV)
JUDGE

SPT